Ben and I negate, Resolved: In United States Public K-12 schools, the probable cause standard ought to apply to searches of students

**Start with an Observation.**

**John Wright of the University of Cincinnati** observes that during the past 30 years, the United States has implemented harsher measures for youth offenders and blurred the line between the juvenile and the criminal justice systems because of a wave of security fears. These measures, in the form of heightened security, police presence, and strict zero ­tolerance policies, have resulted in what is known as the school ­to­ prison pipeline. In fact, **Sarah Mimms** of the Atlantic reports that, to this day, the U.S. sends 2 million children to juvenile detention every year, 95 percent of whom have not committed a violent crime. Fortunately, systemic reform is on the way. For example, **Libby Nelson** of the Justice Policy Institute notes that some of the nation's largest districts are working to reform discipline so that students aren't referred to police, moving away from harsh discipline, and justice programs, that have cut suspension rates in half. The **ALCU** concludes that 38 states have passed legislation that mitigates zero ­tolerance policies and helps students stay in school.

Thus Currently there is social movement against the school to prison pipeline.

**Our Sole Contention is that adopting probable causes reverses this social movement for two reasons**

**First: *School Overreaction***

**Hugo Mialon** finds that probable cause expands the exclusionary rule which in turn creates the perception that students will not get punished for carrying contraband to school. Which is why he concludes probable cause increases crime. The **National School Safety Center** furthers this by explaining that probable cause decreases perception of safety in schools. Schools over react to this decrease in safety and increase security measures. **Jack Cutrone** theorizes that due to a lack of resources in schools to promote safety, school administrators often rely on low cost quick fixes and **Nancy Heitzeg** Confirms with past precedent that schools have implemented zero tolerance policies with no concern about their effectiveness. **The Center for Youth Justice** finds that zero tolerance policy implementation is fueled by youth crime. Thus when crime increases, schools are going to pressure themselves into expanding zero tolerance policies. **Lowenstein** concludes that concerns about school safety spur widespread adoption of zero tolerance policies.

**Second: *Media Madness.***

In the status quo, media discourse on youth crime is relatively subtle. **Perry Moriearty** of the University of Minnesota finds that discourse in the media treating students as criminals has reduced on the whole.

Adopting probable cause would provide the media with the perfect opportunity to reverse this trend and sensationalize the issue, by spinning the new standard as dangerous to the school environment, labeling schools as unable to handle youth crime, and blaming future instances of violence on the inability of schools to readily search students.

Empirically, **Nancy Heitzeg** of the St Catherine University finds that while the media coverage of the school shootings created the perception that school violence was high, there was actually a significant decrease in violent activity at the time. This is because, as **John Horner of the University of Missouri** explains, media sensationalism fosters a narrative of fear, creating a call to protect children and to increase security measures. But worse media sensationalism decreases public awareness of criminalization, as **Catherine Happer**of the **University of Glasgow** explains, the media severely limits and distorts information, leading to public to disengagement. Thus destroying calls for reform and reverting the system back to its broken state. Which is why Nancy **Heitzeg** explains that national media coverage spurs adoption of zero tolerance policies.

**The Impact is *Incarceration of Children***

By reversing the trend and stopping the school to prison pipeline we solve for this childhood incarceration

**Lowenstein** explains that zero tolerance policies lead to students being suspended for minor infractions because the policies don’t distinguish between serious and non-serious offenses. These zero tolerance policies, **Heitzeg** asserts, directly lead to 3.3 million suspensions and 100,000 expulsions per year. Of which she finds African Americans are 10x more likely to be expelled. **The Center for Youth Justice** empirically confirms that being suspended increases a student’s chance of dropping out by 68%. This is bad, as **Dillion** explains 10% of white dropouts and 25% of African American dropouts are incarcerated.

Because Probable Cause is Probably a bad idea, We Negate

[1]John Paul Wright, University of Cincinnati, 2013 2013 **https://books.google.com/books?id=fboKAAAAQBAJ&pg=PR16&lpg=PR16&dq=A+sea+change+is+occurring+in+juvenile+justice.+interestingly,+it+has+less+to+do+with+charting+ne w+territory+than+it+does+with+returning+to+its+roots.+More+than+a+century+ago,+a+separate+justice+system+for+juveniles+was+established,+based+on+the+belief+that+childre n+were+developmentally+distinct+from+adults+and+deserved+to+be+treated+as+such+by+the+state.+During+the+past+30+years,+however,+this+system+has+progressively+erode d+to+become+increasingly+more+similar+to+the+adult+criminal+justice+system.+Today+it+can+be+said+the+juvenile+justice+system+has+suffered+a+bit+of+an+identity+crisis.+Bu t+there+is+reason+for+optimism.&source=bl&ots=mPLdKru6gA&sig=Z3mDl8A0OR83fgFToLQx2NGb83c&hl=en&sa=X&ved=0ahUKEwiCooeloafPAhXDVD4KHfhdC2kQ6AEIHTAA#v=on epage&q=A%20sea%20change%20is%20occurring%20in%20juvenile%20justice.%20interestingly%2C%20it%20has%20less%20to%20do%20with%20charting%20new%20territory%20t han%20it%20does%20with%20returning%20to%20its%20roots.%20More%20than%20a%20century%20ago%2C%20a%20separate%20justice%20system%20for%20juveniles%20was% 20established%2C%20based%20on%20the%20belief%20that%20children%20were%20developmentally%20distinct%20from%20adults%20and%20deserved%20to%20be%20treated %20as%20such%20by%20the%20state.%20During%20the%20past%2030%20years%2C%20however%2C%20this%20system%20has%20progressively%20eroded%20to%20become%20 increasingly%20more%20similar%20to%20the%20adult%20criminal%20justice%20system.%20Today%20it%20can%20be%20said%20the%20juvenile%20justice%20system%20has%2 0suffered%20a%20bit%20of%20an%20identity%20crisis.%20But%20there%20is%20reason%20for%20optimism.&f=false**

“A sea change is occurring in juvenile justice. interestingly, it has less to do with charting new territory than it does with returning to its roots. More than a century ago, a separate justice system for juveniles was established, based on the belief that children were developmentally distinct from adults and deserved to be treated as such by the state**. During the past 30 years, however, this system has progressively eroded to become increasingly more similar to the adult criminal justice system**. Today it can be said the juvenile justice system has suffered a bit of an identity crisis. But there is reason for optimism. When the first edition of this text was published in 1990, violent juvenile crime was on an upward trend and the "get tough" movement was taking hold**. Across the country, legislators and policymakers, spurred by a fearful public's demands to crack down on juvenile crime, [have] implemented increasingly punitive [measures] sanctions for youthful offenders and [blurred the line] allowed the relatively well­defined boundaries between the juvenile and criminal justice systems[.]** to become progressively more porous. Today, nearly 20 years beyond the mid­1990s peak in violent juvenile crime and armed with decades of research about the effects of "get tough" measures, the juvenile justice system has begun to realize that this response has not achieved what it was set in place to do and that we can no longer afford to maintain many of these measures because of diminishing financial resources. “

[2] **Sarah Mimms and Stephanie Stamm**, 5-2-2014, "2 Million Kids Are Arrested in the U.S. Every Year. Congress Is Trying to Change That.," Atlantic, http://www.theatlantic.com/politics/archive/2014/05/2-million-kids-are-arrested-in-the-us-every-year-congress-is-trying-to-change-that/450522/

The two lawmakers are working together with colleagues to completely overhaul the juvenile-justice system in the United States, where more youths are incarcerated than in any other nation by a 5-to-1 ratio. **On average, the U.S. sends 2 million children to juvenile detention every year, 95 percent of whom have not committed a violent crime.**

[3] **Libby Nelson**, 10-27-2015, "The school-to-prison pipeline, explained," Vox, http://www.vox.com/2015/2/24/8101289/school-discipline-race

**Meanwhile, some large school districts are moving away from zero tolerance policies**. Broward County, Florida, one of the largest school districts in the country, decided in 2013 that schools, not police, would deal with students' nonviolent misdemeanors. The Chicago Public Schools are trying to reduce the number of suspensions, [softening a policy](http://www.wbez.org/news/cps-softens-strict-discipline-policies-110396) under which students could be suspended for using a cell phone in school and ending suspensions for children younger than second grade, among other changes. In Los Angeles, children under 13 won't be referred to police for minor offenses, after police issued [552 tickets to preteens](http://www.npr.org/blogs/codeswitch/2014/01/09/261044383/los-angeles-tries-a-new-approach-to-discipline-in-schools) during the 2013-14 school year.

New York City schools are taking a more targeted approach. The city [recently unveiled proposals](http://www.capitalnewyork.com/article/city-hall/2015/02/8562324/city-unveils-long-awaited-school-discipline-reforms) to overhaul its school discipline code. If the changes go into effect, school principals **will have to get the city Department of Education's permission to suspend any student for "insubordination," or for any suspension of a student in third grade or younge**r. And it would no longer be possible to give "superintendent's suspensions" (a more serious level of suspension) to students involved in "minor physical altercations."

Other schools are exploring restorative justice programs, which focus on forming relationships between teachers, students, and administrators and giving students an opportunity to resolve problems by talking about them. The Oakland School District [has been testing this approach for 10 years](http://www.mercurynews.com/education/ci_27320766/school-district-expand-restorative-justice-programs-all-86) and recently decided to expand it districtwide **after schools using restorative justice reported that their suspension rates were cut in half.**

[4] ACLU, 2015 ","<http://www.senate.michigan.gov/committees/files/2015-SCT-ED__-10-13-1-01.PDF>

Currently 38 States and the district of Columbia limit zero tolerance school discipline to weapons. This includes Ohio, Illinois and Indiana

[5] **Hugo M. Mialon** , 2005 "EMORY SCHOOL OF LAW ,"<http://economics.emory.edu/home/documents/workingpapers/hsmialon_05_26_paper.pdf>

Several interesting results emerge. In accordance with intuition **a stronger exclusionary rule increases crime.** If an individual commits a crime, the evidence against him might wrongfully indicate that he is innocent, so the police would not have probable cause to search him. If the police searched him anyway, thereby finding incriminating evidence, then he would likely escape conviction only if this evidence was excluded from trial. **Thus a stronger exclusionary rule reduces the expected punishment for committing a crime, and hence increases crime.**

[6] **National School Safety Center**, 1995, "," University of Malibu, https://www.ncjrs.gov/pdffiles1/Digitization/161361NCJRS.pdf

Despite court-imposed safeguards on Students' constitutional rights, schools still have greater leeway in conducting searches than do police officers. In many cases, law enforcement officers must have a warrant and meet a "probable cause" standard to conduct a search. The Fourth Amendment, which protects citizens against unlawful and unreasonable searches, originally set forth these two requirements. **School officials, however, have successfully demonstrated to the courts that such a stringent requirement would seriously impair the ability to maintain discipline and a safe school environmen**t

[7]Jack Cutrone, 2009, "," No Publication, http://www.icjia.state.il.us/assets/pdf/BARJ/SCHOOL%20BARJ%20GUIDEBOOOK.pdf

School policies that force students out of school, often referred to as the “pushout problem,” are a result of suspensions, expulsions, arrests, and subsequent dropouts. **Due to the lack of resources, teachers and school administrators often rely on quick-fix, low-cost disciplinary actions which push students out of the classroom and do little to improve behavior or create an environment conducive to learning**.10 These punishments remove students from school, disrupt learning, and provide more opportunities for students who are away from school, often with little parental supervision, to socialize with deviant peers

[8] **Heitzeg** , 2009, ",, https://www.hamline.edu/uploadedFiles/Hamline\_WWW/HSE/Documents/criminalizing-education-zero-tolerance-police.pdf

In theory, **zero-tolerance policies are intended to have a deterrent effect for intentionally troublesome student**s, i.e. the mere presence of the policies is intended to thwart disruptive behavior. **But**, as with harsh penalties for juvenile and criminal justice, **zero tolerance was adopted and expanded in lieu of data supporting either effectiveness or need.** There is, however, mounting evidence that these policies do contribute to the school to prison pipeline. According to the Advancement Project (2005)

[9] **Center for Youth Justice** , 2013, ",", https://storage.googleapis.com/vera-web-assets/downloads/Publications/a-generation-later-what-weve-learned-about-zero-tolerance-in-schools/legacy\_downloads/zero-tolerance-in-schools-policy-brief.pdf

These policies generally require out-of-school suspension or expulsion on the first offense for a variety of behaviors—initially instituted for possession of a weapon or illegal drugs, but now frequently also including smoking tobacco or fighting in school. **The changes began in the late 1980s and quickly gained momentum, fueled in large part by rising rates of juvenile arrests for violent crime**s and a climate in which young people were increasingly seen as dangerous

[10] **Lowenstein**, 2008, Yale School of Law, https://www.aclu.org/files/pdfs/humanrights/dignitydenied\_november2008.pdf

However, with **rising concerns about school safety**, fueled in part by nationally publicized incidents of school-based violence, such as the Columbine shootings, the role of police in schools **has** **expanded** dramatically over the past fifteen years.2 Today, the National Association of School Resource Officers, which describes itself as “the largest school-based police organization in the U.S.,” has more than 9,000 members.3 In many public schools, administrators rely heavily on law enforcement officials to play a role in school discipline. In addition, **widespread adoption**, over the last two decades, **of “zero tolerance” policies—policies that mandate suspension, expulsion, and arrest for certain student behavior occurring both on and off school grounds,** most notably drug and weapons offenses—has led to stricter punishments for student offenses,4 growing numbers of suspensions and expulsions,5 and increased electronic monitoring of students as a preventative and probationary measure.

[11] In the status quo, media discourse on youth crime is relatively subtle. Perry Moriearty of the University of Minnesota finds that, in 2010 http://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1307&context=faculty\_articles

**By the early twenty­first century, the superpredator discourse [in the media, treating students as criminals,] had receded** , but by then, the juvenile justice system had been irrevocably altered. During the mid­1990s, even as juvenile crime rates dropped by record rates, crime news coverage skyrocketed,16 and the American public became gripped by fear that offending was out of control.17 Predictably, politicians were paying attention. Between 1992 and 1997, nearly every state in the country passed legislation that made it easier to prosecute juveniles as adults in criminal court in what legal scholar Franklin Zimring called the "most sustained legislative crack­ down ever on serious offenses committed by youth within the jurisdictional ages of American Juvenile Courts. '"18 Under these so­called "get tough" laws, juveniles were not only saddled with adult sentences, but were also confined in record numbers in adult facilities.19 The raw numbers were stark. In 1988, approximately 1600 juvenile offenders were confined in this country's adult jails; by 1997, there were more than 9000.20

[12] **Heitzeg** , 2009, ",,<http://files.eric.ed.gov/fulltext/EJ870076.pdf>

The TV world of crime and criminals, however, is an illusion. **TV news does not accurately reflect reality, especially when it comes to reporting on crime**. As Walker, Spohn, and Delone (2012, 25) observe, “Our perceptions of crimes are shaped to a large extent by the highly publicized crimes featured on the nightly news and sensationalized in news papers. We read about young African American and Hispanic males who sexually assault, rob and murder whites, and we assume that these crimes are typical**. We assume that the typical crime is a violent crime, that the typical victim is white, and that the typical offender is African American or Hispanic.” These assumptions are false. TV news constructs a portrait of crime, criminals and victims that is not supported by any data. In general, the research indicates that violent crime and youth crime is dramatically over-represented, crime coverage has increased in spite of falling crime rates**

[13] John Horner, 2013 , "," No Publication,<https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/37781/research.pdf?sequence=2>

Media sensationalism [fosters] fostered a narrative of fear that [shapes] shaped perceptions about violence in schools[, creating a] (Altheide, 2009, p. 1354). Birkland and Lawrence (2009) wrote, “Framing is virtually inevitable in human cognition and communication because reality itself is too multifaceted to be comprehended as a whole” (p. 1406). “Columbine was the bloodiest school violence incident in the 1990s” (Birkland & Lawrence, 2009, p. 1406) “where millions of people experienced the fear vicariously through live news coverage” (Addington, 2009, p. 1427). Rather than frame the Columbine violence in the context of which it happened, politicians and school administrators used the media’s discourse of fear to call for action to protect children and to increase security measures. [This] (Altheide, 2009). The nation’s fear of juvenile violence [has] grew from isolated events caused by 16 multiple influences into a panic that no child was safe in his or her school. Altheide (2009) wrote: The capacity to shape our view of the world, [which is] and the words that we use to describe it are significant for future action[.].... The discourse of fear expanded social control and policies.... Officials at all levels of government opted for more surveillance, lockdown drills, and efforts to prevent more of the same (p. 1355). The discourse of fear [promts] prompted many leaders to increase safety measures which would attempt to prevent future incidents of school violence.

[14] Catherine Happer\*A,, 2013 , "The Role of the Media in the Construction of Public Belief and Social Change," No Publication,<http://jspp.psychopen.eu/article/view/96/37>

The media play a central role in informing the public about what happens in the world, particularly in those areas in which audiences do not possess direct knowledge or experience. This article examines the impact the media has in the construction of public belief and attitudes and its relationship to social change. Drawing on findings from a range of empirical studies, we look at the impact of media coverage in areas such as disability, climate change and economic development. Findings across these areas show the way in which the media shape public debate in terms of setting agendas and focusing public interest on particular subjects. For example, in our work on disability we showed the relationship between negative media coverage of people on disability benefit and a hardening of attitudes towards them. Further, we found that the media also severely limit[s] the information with which audiences understand these issues, [removing] and that alternative solutions to political problems are effectively removed from [the] public debate[, and most importantly,]. We found other evidence of the way in which media coverage can operate to limit[s] understanding of possibilities of social change. In our study of news reporting of climate change, we traced the way that the media have constructed [by constructing] uncertainty around the issue, [leading to public] and how this has led to disengagement[.] in relation to possible changes in personal behaviours. Finally, we discuss the implications for communications and policy and how both the traditional and new media might help in the development of better informed public debate.

[15] **Heitzeg** , 2009, ",,<http://files.eric.ed.gov/fulltext/EJ870076.pdf>

**Zero tolerance rhetoric**, which was borrowed from the War on Drugs, **became widespread as** school officials and community leaders expressed outrage at gang shootings and the impending wave of ―super-predators‖. Despite school crime rates that were stable or declining, related policies were implemented by the mid- 1990s. Early on, these policies primarily focused on weapons and drugs at school ( Skiba 2001) **National media reports about school shootings, especially Columbine, created a further impetus for states and localities to add** additional features such as the increased use of **security** cameras, metal detectors and a police presence at schools (Birkland and Lawrence 2009; Frymer 2009)

[16]**Lowenstein**, 2008, Yale School of Law, https://www.aclu.org/files/pdfs/humanrights/dignitydenied\_november2008.pdf

**These zero tolerance policies force school administrators to seek suspensions or expulsions of students even when the sanctions serve no legitimate or substantial state interest as required under domestic law**

[17]**Heitzeg** , 2009, ",, https://www.hamline.edu/uploadedFiles/Hamline\_WWW/HSE/Documents/criminalizing-education-zero-tolerance-police.pdf

Not surprisingly, zero tolerance policies have lead to a dramatic increase in suspensions and expulsions. Annually, **there are approximately 3.3 million suspensions and over 100,000 expulsions each year** (NCES 2009**). This number has nearly doubled since 1974**, with rates escalating in the mid 1990s **as zero tolerance policies began to be widely adopted** (NAACP 2005). These rates have risen even though school violence generally has been stable or declining (Skiba 2002).

[18] **Center for Youth Justice** , 2013, ",", https://storage.googleapis.com/vera-web-assets/downloads/Publications/a-generation-later-what-weve-learned-about-zero-tolerance-in-schools/legacy\_downloads/zero-tolerance-in-schools-policy-brief.pdf

Being retained a grade, especially while in middle or high school, is one of the strongest predictors of dropping out. **In one national longitudinal study, youth with a prior suspension were 68 percent more likely to drop out of school.**

[19] **Sam Dillon**, 10-8-2009, "Study Finds High Rate of Imprisonment Among Dropouts," New York Times, <http://www.nytimes.com/2009/10/09/education/09dropout.html>

On any given day, about one in every 10 young male high school dropouts is in jail or juvenile detention, compared with one in 35 young male high school graduates, according to a [new study](http://www.clms.neu.edu/publication/documents/The_Consequences_of_Dropping_Out_of_High_School.pdf)of the effects of dropping out of school in an America where demand for low-skill workers is plunging.

The picture is even bleaker for African-Americans, with nearly one in four young black male dropouts incarcerated or otherwise institutionalized on an average day, the study said. That compares with about one in 14 young, male, white, Asian or Hispanic dropouts.